



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 12, 1998

Ms. Tenley Aldredge  
Assistant County Attorney  
County of Travis  
P.O. Box 1748  
Austin, Texas 78767

OR98-2691

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119469.

The Travis County Department of Transportation and Natural Resources (the "department") received a request for its file regarding permit number 98-0029. You contend that the requested permit file is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.103(a) excepts from disclosure information relating to litigation to which a governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.—Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.—Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990).

You state that the department has notified you that the requested permit file "will shortly be presented to the Travis County Attorney's Office for enforcement proceedings." You offer no description of the anticipated "enforcement proceedings," and we are unable to determine whether such proceedings would constitute litigation for purposes of section 552.103(a). *Cf.* Open Records Decision No. 588 (1991) (questions remain regarding whether various types of proceedings are litigation within meaning of section 552.103(a)). Because you have not established the applicability of section 552.103(a) to the permit file, we find that you must publicly disclose it.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, reading "Karen Hattaway".

Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/mjc

Ref: ID# 119469

Enclosures: Submitted documents

cc: Mr. John Crane  
Zunker & Crane  
812 San Antonio, Suite 105  
Austin Texas 78701  
(w/o enclosures)